

Jun 12, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,

Plaintiff,

v.

BETSY DeVOS, in her official capacity as Secretary of the United States Department of Education, and UNITED STATES DEPARTMENT OF EDUCATION, a federal agency,

Defendants.

NO: 2:20-CV-0182-TOR

ORDER DENYING AMICI CURIAE BRIEF

BEFORE THE COURT is the 16 Counties and Cities' Motion for Leave to File Brief of Amici Curiae. ECF No. 26. This matter was submitted for consideration without oral argument. The Court has reviewed the briefing and the record and files herein and is fully informed.

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DISCUSSION

2 The Court has broad discretion to grant or refuse a prospective amicus
3 participation. *See Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982),
4 *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995). Amicus
5 may be either impartial individuals or interested parties. *See Funbus Sys., Inc. v.*
6 *Cal. Pub. Utils. Comm'n*, 801 F.2d 1120, 1125 (9th Cir. 1986). In deciding
7 whether to grant leave to file an amicus brief, courts should consider whether the
8 briefing “supplement[s] the efforts of counsel, and draw[s] the court’s attention to
9 law that escaped consideration.” *Miller-Wohl Co., Inc. v. Comm'r of Labor &*
10 *Indus. Mont.*, 694 F.2d 203, 204 (9th Cir. 1982). “An amicus brief should
11 normally be allowed when . . . the amicus has an interest in some other case that
12 may be affected by the decision in the present case, or when the amicus has unique
13 information or perspective that can help the court beyond the help that the lawyers
14 for the parties are able to provide. . . . Otherwise, leave to file an amicus curiae
15 brief should be denied.” *Cnty. Ass'n for Restoration of Env't (CARE) v. DeRuyter*
16 *Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999) (internal citations
17 omitted).

18 Prospective amici's brief offers no additional legal or other substantive
19 information or perspective that has not already been represented to the Court in this

1 litigation or that is particularly helpful to this Court's pending determination.

2 Therefore, the motion for leave to file an amici brief is **DENIED**.

3 **ACCORDINGLY, IT IS HEREBY ORDERED:**

4 16 Counties and Cities' Motion for Leave to File Brief of Amici Curiae,
5 ECF No. 26, is **DENIED**.

6 The District Court Executive is hereby directed to enter this Order and
7 provide copies to counsel and counsel for the proposed amici parties.

8 **DATED** June 12, 2020.



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10 *Thomas O. Rice*
11 THOMAS O. RICE
12 Chief United States District Judge
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